

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE:

EX PARTE APPLICATION OF SPS I FUNDO DE
INVESTIMENTO DE AÇÕES – INVESTIMENTO
NO EXTERIOR FOR AN ORDER TO TAKE
DISCOVERY PURSUANT TO 28 U.S.C. § 1782

Case No. _____

***EX PARTE* APPLICATION FOR AN ORDER UNDER 28 U.S.C. § 1782 PERMITTING
SPS I FUNDO DE INVESTIMENTO DE AÇÕES – INVESTIMENTO NO EXTERIOR
TO ISSUE A SUBPOENA FOR THE TAKING OF A DEPOSITION AND THE
PRODUCTION OF DOCUMENTS FROM COLORADO INVESTMENT HOLDINGS
LLC F/K/A BLESSED HOLDINGS LLC**

Based on the memorandum of law, declaration, and other supporting documents accompanying this application, SPS I Fundo de Investimento de Ações – Investimento no Exterior (“SPS”), by its undersigned counsel, respectfully submits this memorandum of law in support of its *ex parte* application (the “Application”) respectfully requests an order authorizing it to take discovery from Colorado Investment Holdings LLC f/k/a Blessed Holdings LLC (Delaware) (“Blessed Holdings” or “Respondent”) for use in a foreign proceeding, pursuant to Title 28, United States Code, Section 1782 (“Section 1782”) and Federal Rule of Civil Procedure 45.

SPS’s Application meets the requirements of Section 1782: (a) Respondent is “found” or resides in this judicial district; (b) the narrow discovery SPS requests is for use in proceedings before a foreign tribunal; (c) SPS is an “interested person”; and (d) the Application does not require disclosure of privileged materials. The factors set out by the Supreme Court in *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241 (2004) weigh heavily in favor of SPS’s limited discovery requests: (1) Blessed Holdings is not a party in the Brazilian administrative proceeding and the evidence sought likely is unobtainable without this Court’s assistance; (2) there is no

indication that the foreign tribunal will be unreceptive to the requested discovery; (3) SPS is not using this Application to circumvent any proof-gathering restrictions or policies; and (4) the targeted discovery SPS seeks is narrowly tailored and not unduly burdensome or intrusive.

Finally, as courts in this Circuit have recognized, Section 1782 applications made on an *ex parte* basis are properly filed and routinely granted. *See, e.g., In re Mota*, 2020 WL 95493, at *1 (D. Del. Jan. 8, 2020) (“Discovery applications under § 1782 are often granted *ex parte* because, *inter alia*, witnesses and other recipients can ‘raise[] objections and [otherwise] exercise[] their due process rights by motions to quash.’”); *In re Ex parte Petition of Republic of Turkey for an Order Directing Discovery From Hamit Çiçek Pursuant to 28 U.S.C. § 1782*, 2020 WL 2539232, at *3 (D.N.J. May 18, 2020) (“‘[An] *ex parte* application is an acceptable method for seeking discovery pursuant to Section 1782,’ in part because the person subpoenaed may exercise their due process rights with a motion to quash.”); *In re Ex Parte Application of Societe d’Etude de Realisation et d’Exploitation Pour le Traitement du Mais*, 2013 WL 6164435, at *2 (E.D. Pa. Nov. 22, 2013) (“Any fair interpretation of § 1782(a)’s plain language . . . should read it to encompass *ex parte* proceedings[.]”); *In re Platebright Ltd.*, 2014 WL 341568, at *6 (D.V.I. Jan. 30, 2014) (“[I]t is common for parties to request and obtain [§ 1782] orders authorizing discovery *ex parte*[.]”).

SPS, therefore, respectfully requests that this Court enter an order granting this Application.

Dated: December 6, 2021
Wilmington, Delaware

Respectfully submitted,

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* Motions for *pro hac vice* admission
forthcoming

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